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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,157	04/10/2004	Michael Bianchi	1-24157	1178

46582 7590 06/03/2005

MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA - FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER

LAZO, THOMAS E

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

**Office Action Summary**

Application No.

10/822,157

Applicant(s)

BIANCHI ET AL.

Examiner

Thomas E. Lazo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-20 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date, ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/12/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 17 is objected to because of the following informalities:

In claim 17, there is no claim number after “claim” to refer to the claim number from which it depends. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang et al. (5,447,030). Wang et al. discloses a brake booster assembly for mounting on a vehicle panel having an aperture with a housing, a mounting bolt extending outwardly from an outer wall of the housing for extending through an aperture of a vehicle panel to mount the brake booster to the vehicle panel, and a clip 10 adapted to be fastened to the mounting bolt, a nut adapted to be threadably fastened to the mounting bolt to more securely mount the brake booster to the vehicle panel, a master cylinder mounted on the housing, a fluid reservoir mounted on the master cylinder, and an input rod assembly attached to the master cylinder and adapted to be attached to a pedal assembly, wherein the clip 10 has a securing structure 14,11 for engaging with a wall of

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the vehicle panel to at least temporarily mount the brake booster to the vehicle panel, and the clip is removably and resiliently fastened to the bolt. See Wang et al. col. 4, line 28 – col. 5, line 25.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 9-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (4,785,628) in view of Tinnerman (2,244,976). Myers discloses a brake booster assembly for mounting on a vehicle panel having an aperture with a housing, a mounting bolt extending outwardly from an outer wall of the housing for extending through an aperture of a vehicle panel to mount the brake booster to the vehicle panel, a master cylinder mounted on the housing, a fluid reservoir mounted on the master cylinder, and an input rod assembly attached to the master cylinder and adapted to be attached to a pedal assembly. Myers does not disclose a clip adapted to be fastened to the mounting bolt having the characteristics taught for by Tinnerman

Tinnerman teaches in figures 1-3 for a mounting bolt extending outwardly from a panel 28 for extending through an aperture of another panel 16 to mount the panel 28 to the other panel 16, and that there is a clip adapted to be fastened to the mounting bolt having a securing structure for engaging with a wall of the vehicle panel to at least temporarily mount the panel to the other panel, wherein the clip is removably and resiliently fastened to the bolt, the clip is sized to extend through the aperture of the other panel, the clip is sized to extend completely through the

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aperture of the other panel, the clip is generally tubular shaped defining an axis and having a non-continuous cross-section defining a longitudinal slot in the clip such that the clip is adapted to be resiliently fastened to the bolt in a direction normal to the axis to extend the bolt through the slot, the clip includes integral structures formed therein for engaging with external threads of the mounting bolt to prevent the clip from moving in an axial direction relative to the mounting bolt, the clip includes a tapered end for engaging with external threads of the mounting bolt to prevent the clip from moving in an axial direction relative to the mounting bolt, the securing structure is a tab extending radially outwardly from a tubular wall of the clip, wherein an end of the tab engages with the wall of the other panel, the tab is a spring tab resiliently extending outwardly from the tubular wall of the clip such that the tab is movable to a generally flush position relative to the tubular wall, the tab is integrally formed in the clip, and the clip is formed from a flat blank of metal formed into a generally open cylindrical shape for the purposes of enabling articles to be fastened to relatively thin panels which normally possess insufficient thickness to be threaded for the reception of a bolt. Regarding claim 16, the patentability of the cylindrical shape of the clip does not depend on the stamping process. See MPEP 2113 Product-By-Process claims.

Since Myers and Tinnerman both involve fastening an article to a relatively thin panel, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the mounting assembly of Myers, based on the teachings of Tinnerman, to include a clip with the characteristics taught by Tinnerman for the purposes of enabling the housing to be fastened to the relatively thin vehicle panel which has insufficient thickness to be threaded.

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***Allowable Subject Matter***

Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consists of two patents.

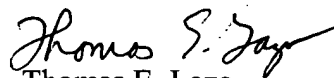
Morlan (6,189,437) and Takeuchi et al. (4,594,854) are cited to show brake booster assembly mounting structures.

***Contact Information***

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (571) 272-4818. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (571) 272-4820. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to status of this application or proceeding should be directed to the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.



Thomas E. Lazo  
Primary Examiner  
Art Unit 3745

TEL  
May 27, 2005